

Harry L. Bierley, : United States District Court
Plaintiff : Western District of Pennsylvania
V : Civ. Act. No. 05-07E
Jo Anne B.Barnhart, : J Sean McLaughlin and
Defendant, Comm of Soc Sec. MJ Susan Paradise Baxter

Objections To Report And Recommendation
Dated 11/14/05

And now comes the pro se plaintiff before the Honorable Court to respectfully present objections to the MJ/R+R of 11/14/05, and to move the Court to reject the R+R in its entirety.

Fraudulent concealment of material facts relating to a criminal matter is involved in the defendant's insipid inaction. Per Black's Law Dictionary, 5th Ed., fraudulent concealment is defined as:

The hiding or suppression of a material fact or circumstance which the party is legally or morally bound to disclose.

Plaintiff avers that the defendant is guilty of abuse and misuse of her official status to suppress facts that would prove the plaintiff's circumstance hereto is/was the direct result of 1. extreme acts of official oppression in the "trial" court of CP 38 of 90, 2. Criminal Obstruction of Justice by that court and the Erie Co., PA District Attorney's Office, 3. Kidnapping, 4. Perjury, and more, resulting in plaintiff's illegal and wrongful confinement in a state prison for 4½ years including the time period at bay in this matter.

Respondeat superior is applicable when the criminal acts of fraud are done by her lower echelon employees with her full knowledge, awareness, and approval. It is indisputable that Ms. Barnhart is guilty of wrongdoing per respondeat superior, when, she herself does the exact same wrong as those lower echelon employees.

After being informed that the ALJs had been guilty of fraudulent concealment in their courts, she plainly had both legal and moral responsibility to expose the facts in the requested medical records on James Hibbler. That is especially true, in that, her counsel is himself a member of a criminal justice organization with direct access to the material.

No reasonable person could justify her failure to act and expose the material facts pleaded by the plaintiff. Those facts irrefutably demonstrate, that, known perjury was used by both the Court and the District Attorney in CP 38 of 90 to get an illegal and wrongful "conviction" of me for a felony of aggravated assault.

Thereafter, the plaintiff was forced to endure 4½ years in prison with constant efforts to force him to take psychotropic drugs and brand him as severely mentally ill. Three weeks before maximum date, he suffered a bloody and gruesome beating from eight or more burley prison guards because plaintiff did not want a TB shot, when, he felt sick and thought it highly possible that he might be harmed by the TB shot.

Plaintiff's astounding medical history since then is indisputable and irrebuttable proof that he was NOT lying or pretending he was sick. Exactly five months after he finally was released from prison, he underwent major sinus surgery followed six weeks later by extensive varicose vein surgery on left leg. Then, three years and two days later, he underwent the exact same extensive sinus surgery followed soon by DVT surgery in that left leg, DVT surgery in the groin, and DVT surgery needed in the right leg was NOT done in order to save some veins in case plaintiff needed heart bypass surgery stemming from his heart condition.

Meanwhile, plaintiff endured many prostate cancer diagnoses with readings of 23.1 and the high teens for PSA. As that was going on, he also underwent very painful problems with kidneys and liver with tentative cancer diagnoses in both. Fortunately, no cancer evolved in any of the foregoing, however, one year ago he had a twice confirmed diagnosis of Beret's Esophogitis and throat cancer for which he is taking strong doses of medication twice daily. At the time of this writing, he is one week into a heavy dosed three week therapy for serious and chronic sinus infections.

At the time plaintiff was ordered imprisoned on CP 38 of 90, he had attained a great state of health despite a moribund physical history, and, he was able to run around Gridley Park eight times in less than 25 minutes, a distance of about four miles.

Ms Barnhart is also responsible for violations of 18 US 241 and 242 which is imposing grievous harm upon the plaintiff. All of this should NOT be glossed over with pretensions that it is irrelevant or impertinent ancient history. She has helped and is helping to exacerbate severe mental anguish and physical illnesses in the plaintiff. These insipid and morbid wrongdoings should NOT be allowed to go unchecked or unanswered in the hope that Bierley will die soon and the problem will die with him. He has NO INTENT of letting that happen. IN a pathetic sort of way, all the wrongdoings are ensuring that he will stubbornly hang on for another twenty years. He does NOT intend to die disgraced.

Therefore, plaintiff has shown that Ms Barnhart is directly responsible for serious harm to plaintiff as well as responsible as the superior of the ALJs.

It is a most unfortunate fact, that, everything said about Ms Barnhart is also true of the district court judge and magistrate judge.

Therefore, Bierley does move the Honorable Court to reject the R+R in entirety, or alternatively, to have this case removed to another circuit, because, over the years, the Third Circuit Court has been likewise guilty. It Is So Prayed.

Respectfully submitted,

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